

REMARKS

Applicants wish to thank Examiner HUYNG for speaking to Applicants' representative, Scott Smiley. In the July 28, 2005 telephone conversation, Examiner HUYNG explained to Applicants' representative that the declaration under 37 C.F.R. § 1.131, filed on 04/14/2005, was not sufficient to overcome the Kutay et al. reference because the declaration failed to point out exactly what facts are established by the evidence submitted in connection with the declaration.

Although the Applicants respectfully disagree with the Examiner's rejection of the affidavit with over one-hundred pages of prototype information including test results supporting a reduction-to-practice, the Applicants have elected to resubmit the 1.131 affidavit herewith solely for the purpose of expediting the patent application process in a manner consistent with PTO's Patent Business Goals (PBG), 65 Fed. Reg. 54603 (September 8, 2000).^{1 & 2}

Further, the Examiner made the Office Action final based on a new ground of rejection not stated in the earlier Office Action. Applicants respectfully traverse this decision. In the Final Office Action, the Examiner rejected the affidavit filed on 04/14/2005 under 37 C.F.R. § 1.131 for failing to show and provide an explanation pointing out how the evidence supports the reduction to practice of the claimed invention. The Applicants respectfully point out that over one-hundred pages of exhibits and documentation including test results was provided as evidence of the reduction to practice.

¹ See MPEP § 2138.05 "For actual reduction to practice, the invention must have been sufficiently tested." A process or method is reduced to practice "when it is successfully performed."

² Two of the co-inventors were unavailable to sign this additional affidavit to timely file this response the two-month response date of August 29, 2005, however the signatures of the remaining joint inventors along with the signatures of all co-inventors on the same exhibits as previously filed is deemed sufficient under MPEP § 714.05.

According to MPEP § 706.07(a): “Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection not necessitated by amendment of the application by applicant.” The Applicants did not switch from one subject matter to another or resort to any subterfuge to keep the application pending.³ Thus it is respectfully submitted that the final status of the Office Action is premature and should be withdrawn.

If the Examiner does not withdraw the final status of the Office Action, Applicants submit that this response does not raise new issues in the application. It is submitted that the present response places the application in condition for allowance or, at least, presents the application in better form for appeal. Entry of the present response is therefore respectfully requested.

Applicants have studied the Final Office Action dated June 29, 2005. It is submitted that the application is in condition for allowance. Claims 1-16 and 19-26 remain pending. Reconsideration and allowance of the pending claims in view of the following remarks is respectfully requested.

Submitted with this response is a new Declaration under 37 C.F.R. § 1.131, executed by the Applicants of the instant application, and associated evidence, to establish “**facts showing a completion of the invention commensurate with the extent of the invention as claimed**” and that the invention claimed in the instant application was reduced to writing and to practice in the United States prior to June 5, 2000.⁴ Thus, the invention claimed in the present application was invented prior to June 5, 2000.

Specifically, each and every element in at least the independent claims is found within exhibits A-J, which accompany the Declaration. Claim 1 is listed below, with a citation

³ See MPEP § 706.07.

⁴ See *In re Wakefield*, 422 F.2d 897, 164 USPQ 636 (CCPA 1970).

to the relevant exhibit following each element of the claim.

Claim 1 recites:

defining a first XML document and a second XML document based upon one or more reusable content objects, whereby at least one of the content objects includes at least one object dependency graph that identifies content object dependency across the first XML document and the second XML document using one or more edges denoting relationships between one or more of the content objects so as to provide synchronization of the content objects across the first XML document and the second XML document;

(Exhibit A, page 42 (Dependency Parser), the Franklin Dependency Parser reads through XML objects that have been checked in and detects two types of dependencies:

I. Servables and fragments can include subfragments, these get stored as an edge of type "composition in the Daedalus Object Dependency Graph (ODG);

II. Compound fragments include an associated content file, this dependency gets stored as an edge type "composition" in the ODG. Servables can include style sheets, these get stored as an edge type "stylesheet" in the ODG.

Evidence A, page 15 (Step 7) "For each servable DTD, you need to define one or more XSL style sheets that will be assembled with the servable XML and the XML of any subfragment into the final published pages....")

building the first XML document so as to form a self-contained accumulation of the one or more content objects in accordance with the object dependency graph;

(Exhibit A, page 15 (Step 7) "For each servable DTD, you need to define one or more XSL style sheets that will be assembled with the servable XML and the XML of any subfragment into the final published pages...." and page 15 (last paragraph) "Before page assembly, a servable is temporarily rewritten to include the content of all subfragments....")

building the second XML document so as to form a self-contained accumulation of the one or more content objects in accordance with the object dependency graph;
and

(Exhibit D, page 2 of 3, "For a fragment, the list consists of all final HTML pages of all servables that include the fragment as a subfragment. For a servable, the

list consists of all final HTML pages of that servable.)

in response to a value of the content objects being modified, a change is made across one or more output pages concurrently by automatically invoking an XSL transformation engine so as to produce the output pages.

(Exhibit A, page 44 (first paragraph) "When a fragment is checked in to the Content Store" "The page assembler then pulls in the contents...."; page 43 (second paragraph) The Franklin Page Assembler expands a servable by including the contents of all included subfragments, and combines the resulting XML with the one or more style sheets using Lotus XSL to produce HTML output files; Exhibit E, page 3 (Executive Summary) that "Participants liked that Franklin:... Provides the ability to change content once and have the changes appear in multiple places...")

The Kutay et al. reference cited by the Examiner was filed in the U.S. Patent and Trademark Office on June 5, 2001 and claims priority to provisional application No. 60/209,713, filed on June 5, 2000, which is after the date of invention of the invention claimed in the instant application. Accordingly, **Kutay et al. is removed as an available prior-art reference and cannot be cited against the present application in a rejection under 35 U.S.C. § 103(a).** Therefore, it is respectfully submitted that the rejection of the claims under 35 U.S.C. § 103(a) should be withdrawn.

CONCLUSION

The remaining cited references have been reviewed and are not believed to affect the patentability of the claims as amended.

In this Response, Applicants have amended certain claims. In light of the Office Action, Applicants believe these amendments serve a useful clarification purpose, and are desirable for clarification purposes, independent of patentability. Accordingly, Applicants respectfully submit that the claim amendments do not limit the range of any permissible equivalents.

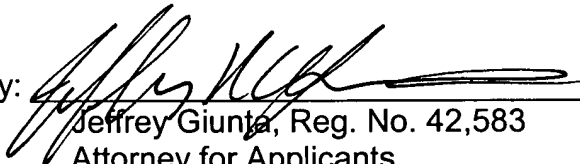
Applicants acknowledge the continuing duty of candor and good faith to disclosure of information known to be material to the examination of this application. In accordance with 37 CFR §1.56, all such information is dutifully made of record. The foreseeable equivalents of any territory surrendered by amendment are limited to the territory taught by the information of record. No other territory afforded by the doctrine of equivalents is knowingly surrendered and everything else is unforeseeable at the time of this amendment by the Applicants and their attorneys.

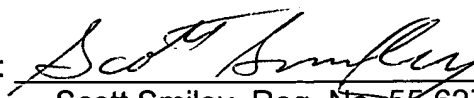
Applicants respectfully submit that all of the grounds for rejection stated in the Examiner's Office Action have been overcome, and that all claims in the application are allowable. No new matter has been added. It is believed that the application is now in condition for allowance, which allowance is respectfully requested.

PLEASE CALL the undersigned if that would expedite the prosecution of this application.

Respectfully submitted,

Date: August 29, 2005

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